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CYBERSitter, LLC d/b/a Solid Oak Software

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

CYBERSitter, LLC, a California limited  
liability company, d/b/a Solid Oak Software,

Plaintiff,

v.

The People's Republic of China, a foreign  
state; Zhengzhou Jinhui Computer System  
Engineering Ltd., a Chinese corporation;  
Beijing Dazheng Human Language  
Technology Academy Ltd., a Chinese  
corporation; Sony Corporation, a Japanese  
corporation; Lenovo Group Limited, a  
Chinese corporation; Toshiba Corporation, a  
Japanese corporation; ACER Incorporated, a  
Taiwanese corporation; ASUSTeK  
Computer Inc., a Taiwanese corporation;  
BenQ Corporation, a Taiwanese  
corporation; Haier Group Corporation, a  
Chinese corporation; and DOES 1-10,  
inclusive,

Defendants.

CASE NO. CV10-0038 GAF (SHx)

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF *EX  
PARTE* APPLICATION FOR  
LETTERS ROGATORY TO EFFECT  
SERVICE OF PROCESS**

Judge: Hon. Gary A. Feess  
Ctm: 740

Hearing Date: None scheduled  
Hearing Time: None scheduled

Discovery Cutoff: None set  
Pretrial Conference: None set  
Trial Date: None set

[Filed concurrently with: Notice of *Ex Parte*  
Application; Declaration of Gregory A.  
Fayer; Letters Rogatory; [Proposed] Order]

**MEMORANDUM OF POINTS AND AUTHORITIES**

Plaintiff CYBERSitter, LLC d/b/a Solid Oak Software ("Plaintiff") brings this *ex parte* application for Letters Rogatory in order to effect service of process on the three Taiwanese defendants in this action. There is good cause for granting Plaintiff's application.

Defendants ACER Incorporated, ASUSTeK Computer Inc. and BenQ Corporation (collectively, "Taiwanese Defendants") are Taiwanese corporations. Taiwan is not a signatory to the Hague Service Convention. Accordingly, there is no designated Central Authority for service of process on defendants in Taiwan, and service of process by the methods prescribed by the Hague Convention is thus not possible for the Taiwanese Defendants.

Furthermore, the Taiwanese Defendants have either declined or failed to respond to Plaintiff's requests to arrange for voluntary service. On January 14, 2010, counsel for Plaintiff sent letters by facsimile and first class mail to each of the Taiwanese Defendants (and two of their U.S. affiliates) requesting arrangements for voluntary service of process. *See* Declaration of Gregory A. Fayer ("Fayer Decl."), ¶ 2, Exhibits A-E. On January 20, 2010, counsel for Plaintiff received a letter from in-house counsel at BenQ's U.S. affiliate attaching a letter (dated January 18, 2010), stating that it would not accept service on behalf of BenQ Corporation. *Id.* ¶ 8, Exhibit F. As of this date, none of the other Taiwanese Defendants or their affiliates has responded to Plaintiff's request. *Id.* ¶ 9.

The only remaining effective method of service of process on the Taiwanese Defendants is by means of Letters Rogatory.<sup>1</sup> Service by this method requires the Court to issue Letters Rogatory to the Appropriate Judicial Authority in Taiwan in the district in which the Taiwanese Defendants reside. Once issued, the signed Letters

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<sup>1</sup> While service of foreign documents in Taiwan may be effected by means of a process server or by certified mail, it is uncertain whether the Taiwanese courts will deem such service valid for purposes of enforcing a foreign judgment in Taiwan.

1 Rogatory must be transmitted by Plaintiff's counsel (along with copies and Chinese  
2 translations of the complaint and summons, and the other supporting documents) to  
3 the Department of State, Office of Overseas Citizens Service, which will then convey  
4 the Letters Rogatory and accompanying documents to the American Institute in  
5 Taiwan in Washington, D.C., which will then convey the documents to the Taiwanese  
6 Economic and Cultural Office in Washington, D.C., which will then convey the  
7 documents to the Taiwanese Foreign Ministry in Taipei, which will then convey the  
8 documents to the Appropriate Judicial Authority in Taiwan (here, the Taiwan Taipei  
9 District Court) to effect service upon the Taiwanese Defendants. The proof of service  
10 must then be returned to this Court through the same channels. This process often  
11 takes four to six months or longer to complete. Thus, in order avoid undue delay and  
12 to facilitate a timely resolution of this dispute, it is necessary to commence this  
13 process as soon as possible.

14 For these reasons, Plaintiff respectfully asks this Court to issue Letters  
15 Rogatory to the Appropriate Judicial Authority in Taiwan, requesting the courts of  
16 Taiwan to order service of process on the Taiwanese Defendants by a method  
17 recognized and prescribed under Taiwanese law.

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19 DATED: January 22, 2010

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23 By /s/ Gregory A. Fayer  
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24 Attorneys for Plaintiff CYBERSitter, LLC  
25 d/b/a Solid Oak Software  
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